

WEISS & JONES  
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Attorneys for Plaintiff  
Bartell Hotels, a California Limited Partnership,  
dba Half Moon Anchorage

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

BARTELL HOTELS, A California Limited  
Partnership, dba HALF MOON ANCHORAGE,

Plaintiff,

v.

M/Y CLAIRE IRENE, a 1968 Owens Motor  
Yacht of Approximately 40-Foot In Length And  
11-Foot In Beam, Bearing California D.M.V.  
Registration No. CF 8646 ED, AND ALL OF  
HER ENGINES, TACKLE, ACCESSORIES,  
EQUIPMENT, FURNISHINGS AND  
APPURTENANCES, *in rem*,

Defendant.

Case No. 07cv2097-L(BLM)

IN ADMIRALTY

SECOND EX PARTE  
APPLICATION FOR ORDER  
AUTHORIZING ISSUANCE OF A  
WARRANT FOR ARREST OF  
DEFENDANT VESSEL

F.R.C.P. Supplemental Admiralty  
Rules C and E.

Plaintiff BARTELL HOTELS, by and through its attorneys, hereby respectfully  
submits its Second *Ex Parte* Application for Order Authorizing Issuance of A Warrant for  
Arrest of Defendant Vessel. Apart from this Paragraph, the text of this Application is  
substantively identical to the Application for Order Authorizing Issuance of A Warrant for  
Arrest of Defendant Vessel which Plaintiff earlier filed and which the Court earlier denied as  
moot, following its dismissal without prejudice of Plaintiff's Verified Complaint for Vessel  
Arrest for want of sufficient specificity. Plaintiff recently filed its First Amended Verified  
Complaint for Vessel Arrest (which details additional facts and has appended an exemplar of

1 the wharfage contract at issue), which Plaintiff believes now provides the requisite level of  
2 detail such that it will meet with the approval of this Honorable Court.

3 Plaintiff BARTELL HOTELS, a California Limited Partnership, dba HALF MOON  
4 ANCHORAGE (hereinafter "PLAINTIFF") by and through its attorneys, respectfully  
5 requests that this Honorable Court issue an Order authorizing the immediate issuance of a  
6 Warrant for Arrest for M/Y CLAIRE IRENE, a 1968 Owens Motor Yacht of Approximately  
7 40-Feet In Length And 11-Feet In Beam, Bearing California D.M.V. Registration No. CF  
8 8646 ED, and all of her engines, tackle, accessories, equipment, furnishings and  
9 appurtenances ("DEFENDANT VESSEL"), and in support thereof, represents as follows:

10 1. The within action is an action *in rem* to establish PLAINTIFF's right to retake  
11 possession of its slip, to recover damages based on the commission of maritime tort of  
12 trespass and for the breach of a maritime contract for wharfage services by the *in rem*  
13 DEFENDANT VESSEL.

14 2. The Verified Complaint and the Declaration of Philip E. Weiss demonstrates  
15 this action is one properly within admiralty jurisdiction, as it is based principally on the  
16 trespass of the DEFENDANT VESSEL and for her breach of a maritime contract for the  
17 provision of wharfage services, and because an action *in rem* is cognizable only in a Federal  
18 District Court sitting in Admiralty.

19 3. The Supplemental Rules for Admiralty and Maritime Claims, as amended,  
20 effective August 1, 1985, require judicial scrutiny of the Complaint to authorize the issuance  
21 of a Warrant of Arrest, as well as provision of notice to the defendants, to permit them an  
22 opportunity for prompt post-seizure hearing, if requested by them.

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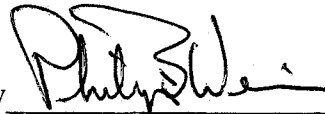
1 WHEREFORE, PLAINTIFF prays that an Order issue authorizing a Warrant for the  
2 Arrest of the DEFENDANT VESSEL, and providing for a prompt post-seizure hearing, if  
3 requested, pursuant to the Supplemental Admiralty Rules, as amended.

4 Dated: January 10, 2008

Respectfully submitted,

5 WEISS & JONES

6  
7 By



Philip E. Weiss, Esq.  
Attorney for Plaintiff  
Bartell Hotels,  
a California Limited Partnership,  
dba Half Moon Anchorage

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6 dba Half Moon Anchorage  
Attorney for Plaintiff  
7

8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
10

11 BARTELL HOTELS, A California Limited  
Partnership, dba HALF MOON ANCHORAGE,

12 Plaintiff,

13 v.

14 M/Y CLAIRE IRENE, a 1968 Owens Motor  
15 Yacht of Approximately 40-Feet In Length And  
11-Feet In Beam, Bearing California D.M.V.  
16 Registration No. CF 8646 ED, AND ALL OF  
HER ENGINES, TACKLE, ACCESSORIES,  
17 EQUIPMENT, FURNISHINGS AND  
APPURTENANCES, *in rem*,

18 Defendant.  
19

Case No. 07 CV 2097 L (BLM)

IN ADMIRALTY

DECLARATION OF SERVICE

F.R.C.P. Supplemental Admiralty  
Rules C and E.

46 U.S.C. Sections 30101-31343

20  
21 **DECLARATION OF SERVICE**

22 **STATE OF CALIFORNIA, COUNTY OF SAN DIEGO**

23 I am employed in San Diego County, State of California. I am over the age of eighteen (18)  
24 and not a party to this action; my business address is 1551 Shelter Island Drive, San Diego,  
25 California 92106. On January 11, 2008, I served the following document(s) described as:

- 26 - **First Amended Verified Complaint For Vessel Arrest, Interlocutory Sale And for**  
27 **Money Damages for Trespass By Vessel, Breach Of Contract For Necessaries, and**  
28 **Quantum Meruit**

- 1       –   **Declaration of Michael J. Ardelt Concerning Existence of Month-To-Month**
- 2       **Wharfage Contract For Defendant Vessel**
- 3       –   **Second Ex Parte Application for Order Authorizing Issuance of a Warrant for**
- 4       **Arrest of Defendant Vessel**
- 5       –   **Declaration of Philip E. Weiss In Support of Vessel Arrest and Regarding**
- 6       **Submissions of Second Application For Order Authorizing Issuance of Warrant**
- 7       **For Vessel Arrest And Second Application For Order Appointing Substitute**
- 8       **Custodian**
- 9       –   **Second [Proposed] Order Authorizing Arrest of Defendant Vessel Pursuant to**
- 10       **Supplemental Admiralty Rule C**
- 11       –   **Second Application for Appointment of Substitute Custodian and for**
- 12       **Authorization for Movement of Defendant Vessel**
- 13       –   **Second Declaration of Richard Bartell In Support of Ex Parte Application for**
- 14       **Order Appointing Substitute Custodian**
- 15       –   **Second [Proposed] Order Appointing Substitute Custodian and Authorizing**
- 16       **Movement of Vessel**
- 17       –   **Second Warrant for Action In Rem**

18           on the interested parties in Case No. 07 CV 2097 L (BLM) by placing ☐ the original  
19 ☒ a true copy thereof enclosed in a sealed envelope addressed as follows:

20           Mr. Kurt Hach

21           19918 Chase Street

22           Canoga Park, CA 91306

23 ☐ **(BY PERSONAL SERVICE):** Personal service accomplished by ☐ attorney service or  
24 ☐ \_\_\_\_\_, employed by Weiss & Jones.

25 ☐ **(BY FACSIMILE AS INDICATED ABOVE):** I caused the foregoing document(s) to be  
26 sent via facsimile transmission to the above addressee(s) at the facsimile numbers indicated above.

27 ☒ **(BY U.S. MAIL AS INDICATED ABOVE):** As follows: I am "readily familiar" with the  
28 firm's practice of collection and processing correspondence for mailing. Under that practice it would

1 be deposited with U.S. Postal Service on that same day with postage thereon fully prepaid at San  
2 Diego, California in the ordinary course of business. I am aware that on motion of the party served.  
3 service is presumed invalid if postal cancellation date or postage meter date is more than one day  
4 after deposit for mailing in affidavit.

5 ☐ (STATE): I declare under penalty of perjury under the laws of the State of California that  
6 the foregoing is true and correct.

7 ☒ (FEDERAL): I declare that I am employed in the office of a member of the bar of this court  
8 at whose direction the service was made.

9 Dated: January 11, 2007

Tamara Geehan

Tamara Geehan

11 c:\arrest-sdcal-clientsub\proofservice